

House Bill 1374

By: Representative Parsons of the 42nd

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 40-6-163 of the Official Code of Georgia Annotated, relating to the duty of the driver of a vehicle meeting or overtaking a school bus and reporting of violations, so as to define certain terms; to provide that such Code section may be enforced by means of video images; to provide a civil penalty; to provide for notice and procedures; to provide for a rebuttable presumption; to provide for the payment for equipment; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 40-6-163 of the Official Code of Georgia Annotated, relating to the duty of the driver of a vehicle meeting or overtaking a school bus and reporting of violations, is amended by adding a new subsection to read as follows:

"(d)(1) As used in this subsection, the term:

(A) 'Owner' means the registrant of a motor vehicle, except that such term shall not include a motor vehicle rental company when a motor vehicle registered by such company is being operated by another person under a rental agreement with such company.

(B) 'Recorded images' means images recorded by a video recording device mounted on a school bus with a clear view of vehicles passing the bus on either side and showing the date and time the recording was made and an electronic symbol showing the activation of amber lights, flashing red lights, stop arm, and brakes.

(C) 'Video recording device' means a camera capable of recording digital images showing the date and time of the images so recorded.

(2) Subsection (a) of this Code section may be enforced by using recorded images as provided in this subsection.

(3) For the purpose of enforcement pursuant to this subsection:

(A) The driver of a motor vehicle shall be liable for a civil monetary penalty if such vehicle is found, as evidenced by recorded images, to have been operated in disregard or disobedience of subsection (a) of this Code section and such disregard or disobedience was not otherwise authorized by law. The amount of such fine shall be \$300.00 for a first offense, \$750.00 for a second offense, and \$1,000.00 for each subsequent offense in a five-year period. Fifty percent of all fines collected pursuant to this subsection shall be paid to the local school system operating the bus involved in the infraction;

(B) The law enforcement agency authorized to enforce the provisions of this Code section shall send by regular mail addressed to the owner of the motor vehicle postmarked not later than ten days after the date of the alleged violation:

(i) A citation for the alleged violation, which shall include the date and time of the violation, the location of the infraction, the amount of the civil monetary penalty imposed, and the date by which the civil monetary penalty shall be paid;

(ii) An image taken from the video recording showing the vehicle involved in the infraction;

(iii) A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency authorized to enforce this Code section and stating that, based upon inspection of recorded images, the owner's motor vehicle was operated in disregard or disobedience of subsection (a) of this Code section and that such disregard or disobedience was not otherwise authorized by law;

(iv) A statement of the inference provided by subparagraph (D) of this paragraph and of the means specified therein by which such inference may be rebutted;

(v) Information advising the owner of the motor vehicle of the manner and time in which liability as alleged in the citation may be contested in court; and

(vi) Warning that failure to pay the civil monetary penalty or to contest liability in a timely manner shall waive any right to contest liability and result in a civil monetary penalty;

(C) Proof that a motor vehicle was operated in disregard or disobedience of subsection (a) of this Code section shall be evidenced by recorded images. A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency and stating that, based upon inspection of recorded images, a motor vehicle was operated in disregard or disobedience of subsection (a) of this Code section and that such disregard or disobedience was not otherwise authorized by law shall be prima-facie evidence of the facts contained therein; and

(D) Liability under this subsection shall be determined based upon preponderance of the evidence. Prima-facie evidence that the vehicle described in the citation issued

pursuant to this subsection was operated in violation of subsection (a) of this Code section, together with proof that the defendant was at the time of such violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(i) Testifies under oath in open court or submits to the court a sworn notarized statement that he or she was not the operator of the vehicle at the time of the alleged violation and identifies the name of the operator of the vehicle at the time of the alleged violation; or

(ii) Presents to the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation.

(4) A violation for which a civil penalty is imposed pursuant to this subsection shall not be considered a moving traffic violation, for the purpose of points assessment under Code Section 40-5-57. Such violation shall be deemed noncriminal, and imposition of a civil penalty pursuant to this subsection shall not be deemed a conviction and shall not be made a part of the operating record of the person upon whom such liability is imposed, nor shall it be used for any insurance purposes in the provision of motor vehicle insurance coverage.

(5) If a person summoned by regular mail fails to appear on the date of return set out in the citation and has not paid the penalty for the violation or filed a police report or notarized statement pursuant to subparagraph (D) of paragraph (3) of this subsection, the person shall then be summoned a second time by certified mail with a return receipt requested. The second summons shall include all information required in subparagraph (B) of paragraph (3) of this subsection for the initial summons and shall include a new date of return. If a person summoned by certified mail again fails to appear on the date of return set out in the second citation and has failed to pay the penalty or file an appropriate document for rebuttal, the person summoned shall have waived the right to contest the violation and shall be liable for the civil monetary penalty provided in paragraph (3) of this subsection.

(6) Any court having jurisdiction over violations of subsection (a) of this Code section shall have jurisdiction over cases arising under this subsection and shall be authorized to impose the civil monetary penalty provided by this subsection. Except as otherwise provided in this subsection, the provisions of law governing jurisdiction, procedure, defenses, adjudication, appeal, and payment and distribution of penalties otherwise applicable to violations of subsection (a) of this Code section shall apply to enforcement under this subsection except as provided in subparagraph (A) of paragraph (3) of this

subsection; provided, however, that any appeal from superior or state court shall be by application in the same manner as that provided by Code Section 5-6-35.

(7) Recorded images made for purposes of this subsection shall not be a public record for purposes of Article 4 of Chapter 18 of Title 50.

(8) A governing authority shall not impose a civil penalty under this subsection on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation and notice to appear by a peace officer for the same violation.

(9) If a governing authority elects to use video recording devices, a portion of any civil monetary penalty collected through the use of such devices may be paid to the manufacturer or vendor of the video recording devices. Otherwise, the compensation paid by the governing authority for such devices shall be based on the value of such equipment."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.